

12-03-04

1fw

PTO/SB/21 (08-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/729,309	
	Filing Date	12/05/2003	
	First Named Inventor	Gregory M. Dobbs	
	Group Art Unit	3743	
	Examiner Name	Allen J. Flanigan	
Total Number of Pages in This Submission	13	Attorney Docket Number	965-009 Con2

ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Response to Restriction Requirement (, and Return mailroom postcard.
Remarks		The Commissioner is authorized to charge any additional fees to Deposit Account No. 50-0289.
EXPRESS MAIL LABEL NO. EV487233449US		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm and Individual name	Wall Marjama & Bilinski LLP Joseph B. Milstein, Ph.D.	Reg. No. 42,897
Signature		
Date	December 2, 2004	

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop , Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this date:		
Typed or printed name		
Signature	Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



EXPRESS MAIL LABEL No. EV487233449US

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/729,309
Applicant : Gregory M. Dobbs, et al.
Filed : December 5, 2003
Title : A PLATE-TYPE HEAT EXCHANGER
TC/A.U. : 3743
Examiner : FLANIGAN, ALLEN J.
Docket No. : 965-009CON2
Customer No. : 20874

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

In response to the Restriction Requirement mailed from the United States Patent and Trademark Office on November 2, 2004, Applicants elect the following generic claim and species claims depending therefrom, so as to be considered to have responded substantively to the Restriction Requirement:

generic claim 37 directed to an energy recovery ventilator comprising a separator comprising an at least partially sulfonated random hydrocarbon copolymer ionomer membrane;

dependent claim 38 (limiting membrane to be permeable to water vapor);

dependent claim 40 (limiting gas streams to counterflow relationship);

dependent claim 41 (adding limitation of a three-dimensional structure disposed in at least one passageway); and

dependent claim 43 (three-dimensional structure of claim 41 comprises pyramids).

Applicants respectfully wish to point out that they believe that generic claim 37 is allowable. Applicants respectfully point out that, in such an instance, all claims depending from an allowable generic claim are also allowable. Hence, in the event that generic claim 37

Response to Restriction Requirement
USSN 10/729,309
Attorney Docket No. 965-009CON2
Inventor: DOBBS et al.
Page 2

is deemed allowable, claims 39, 42, and 44-52 are also to be considered as elected claims, and in this regard, Applicants traverse the Restriction Requirement.

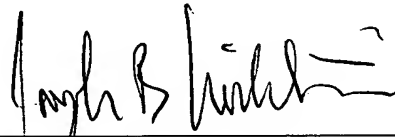
Applicants believe that no fees are due on account of the submission of this paper. However, if Applicant is incorrect and fees are due, the Director is hereby authorized to charge any fees associated with this communication to Deposit Account No. 50-0289.

Applicants attach hereto a copy of all claims presently pending in the application. Claims 37-52 were originally present at the time the present application was filed. Applicants believe the pending claims of the above-captioned application are in allowable form and are patentable over the prior art of record. Applicants respectfully request consideration of the pending claims and a prompt Notice of Allowance thereon.

Please direct any questions or comments to Joseph B. Milstein at (315) 425-9000.

Respectfully submitted,

WALL MARJAMA & BILINSKI LLP



Joseph B. Milstein, Ph.D.
Reg. No. 42,897
Telephone: (415) 425-9000, Ext. 239

Date: December 2, 2004

Customer No.: 20874
Wall Marjama & Bilinski LLP
101 South Salina Street
Suite 400
Syracuse, NY 13202